

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

IN RE:)	
)	
)	
Dani Beth Maglecic	)	Case No. 1:22-bk-10575
	)	Chapter 13
	)	Judge Beth A. Buchanan
Debtor.)	
<hr style="border: 0.5px solid black;"/>)	
)	
Dani Beth Maglecic	)	Adversary Proceeding
	)	Case No. 1:23-ap-01009
Plaintiff,)	
)	
vs.	)	<u>PLAINTIFF'S MOTION FOR</u>
	)	<u>LEAVE TO AMEND THE</u>
	)	<u>COMPLAINT (WITH PROPOSED</u>
	)	<u>AMENDED COMPLAINT</u>
Navient CFC, et al.	)	<u>ATTACHED)</u>
)	
Defendants.)	
<hr style="border: 0.5px solid black;"/>)	

Now comes the Plaintiff, Dani Beth Maglecic ("Plaintiff"), by and through counsel, and pursuant to Fed. Civ. R. 15(a)(2), made applicable to this proceeding through Fed. R. Bk.. P. 7015, requests leave to amend her complaint in the form attached hereto as Exhibit 1. The grounds for this motion are set forth in the attached memorandum.

Respectfully submitted,

/s/ Paul J. Minnillo
Paul J. Minnillo, Esq. (OH-0065744)
MINNILLO LAW GROUP CO., LPA
2712 Observatory Avenue
Cincinnati, Ohio 45208
(513)723-1600 / (513)723-1620 (Fax)
pjm@mlg-lpa.com
Attorney for Plaintiff

MEMORANDUM

Pursuant to Fed. Civ. R. 15(a)(2), Plaintiff respectfully requests leave to amend her Complaint to add two additional Defendants. Specifically, Plaintiff seeks to add as a Defendant both the United States Department of Education (“USDOE”) and the Higher Education Loan Authority of the State of Missouri (“MOHELA”). Both the USDOE and MOHELA were omitted from the original complaint filed herein because it was believed that the debts owed to one or both of them had been assigned to the other named Defendants in this case and because neither the USDOE nor MOHELA filed a proof of claim in the main case (1:22-bk-10575). Having learned that neither the USDOE nor MOHELA are properly before this Court, the Plaintiff now seeks leave in which to amend the complaint herein and add them as party Defendants.

Pursuant to Fed. Civ. R. 15(a)(2), leave to amend a complaint should be “freely” given “when justice so requires.” In this case, leave to amend the complaint is appropriate because not all student loan creditors are before this Court; because the operative set of facts in the Plaintiff’s complaint are applicable to all Defendants, including the USDOE and MOHELA; and it would better serve judicial economy to have one case where all student loan Defendants are before this Court rather than two duplicative cases proceeding on separate tracks.

WHEREFORE, the Plaintiff requests an Order from this Court granting leave to amend her complaint in the form attached hereto as Exhibit 1, and for any further relief which this Court deems just and equitable.

Respectfully submitted,

/s/ Paul J. Minnillo
Paul J. Minnillo, Esq. (OH-0065744)
MINNILLO LAW GROUP CO., LPA
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pjm@mlg-lpa.com
Attorney for Plaintiff

NOTICE OF MOTION

The Debtor has filed a Motion for Leave to Amend the Complaint. Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one. If you do not want the court to grant the relief sought in the motion, then on or before twenty-one (21) days from the date set forth in the certificate of service for the motion, you must file with the court a response explaining your position by mailing your response by regular U.S. Mail to:

U.S. Bankruptcy Court, Atrium II, Suite 800, 221 East 4th Street, Cincinnati, OH 45202

OR your attorney must file a response using the court's ECF System. The court must receive your response on or before the above date. You must also send a copy of your response either by 1) the court's ECF System or by 2) regular U.S. Mail to:

Dani Beth Maglecic, 2362 Glenside Ave Norwood, OH 45212
Paul J. Minnillo, Esq., MINNILLO LAW GROUP CO., LPA, 2712 Observatory Avenue, Cincinnati, OH 45208
Margaret A. Burks, Chapter 13 Trustee, 600 Vine St., Ste. 2200, Cincinnati, OH 45202
US Trustee, 550 Main St., Ste. 4-812, Cincinnati, OH 45202

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief without further hearing or notice.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Leave to Amend the Complaint was served (i) electronically on the date of filing through the court's ECF System on all ECF participants registered in this case at the email address registered with the court and (ii) by regular U.S. Mail, as detailed below, on 4/3/24 addressed to:

Dani Beth Maglecic, 2362 Glenside Ave Norwood, OH 45212

United States Department of Education
Attn: Secretary of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

United States Attorney
Southern District of Ohio
221 E. 4th St., Ste. 400
Cincinnati, Ohio 45202

United States Attorney General
Main Justice Bldg., Rm. 5111
10th & Constitution Ave. NW
Washington DC 20530

MOHELA
633 Spirit Drive
Chesterfield, MO 63005-1243

/s/ Paul J. Minnillo
Paul J. Minnillo (0065744)

EXHIBIT 1

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

IN RE:	:	CASE NO.: 1:22-bk-10575
Dani Maglecic	:	CHAPTER 13
DEBTOR(S)	:	JUDGE: Buchanan
<hr/>		ADV. NO.: 1:23-ap-01009
Dani Maglecic	:	<u>COMPLAINT TO DETERMINE DISCHARGEABILITY OF STUDENT LOANS (FIRST AMENDED)</u>
c/o Minnillo Law Group Co., LPA	:	
2712 Observatory Avenue	:	
Cincinnati, Ohio 45208	:	
PLAINTIFF	:	
	:	
vs.	:	
	:	
NAVIENT CFC	:	
c/o Navient Solutions, LLC	:	
PO BOX 9640	:	
Wilkes-Barre, PA 18773-9640	:	
and	:	
	:	
NAVIENT	:	
c/o Navient Solutions, LLC	:	
PO BOX 9640	:	
Wilkes-Barre, PA 18773-9640	:	
and	:	
	:	
NAVIENT PC TRUST	:	
c/o Navient Solutions, LLC	:	
PO BOX 9640	:	
Wilkes-Barre, PA 18773-9640	:	
and	:	
	:	
NATIONAL COLLEGIATE STUDENT	:	
LOAN TRUST 2005-3	:	

c/o Transworld Systems Inc. :
PO Box 4275
Norcross, GA 30091 :

and :

NATIONAL COLLEGIATE STUDENT :
LOAN TRUST 2004-2
c/o Transworld Systems Inc. :
PO Box 4275
Norcross, GA 30091 :

and :

UNITED STATES DEPARTMENT OF :
EDUCATION
Attn: Secretary of Education :
400 Maryland Avenue, SW
Washington, D.C. 20202 :

and :

MOHELA :
633 Spirit Drive
Chesterfield, MO 63005-1243 :

Defendants. :

Now comes the Plaintiff, Dani B. Maglecic ("Plaintiff"), by and through counsel, and hereby states as follows:

1. Plaintiff filed a Chapter 13 Petition in Bankruptcy on April 7, 2022 under Case No. 1:22-bk-10575 in the United States Bankruptcy Court, Southern District of Ohio, Western Division in Cincinnati (the "Main Case"). The Plaintiff's Chapter 13 Plan was confirmed in the Main Case on or about July 21, 2022.

2. This Complaint seeks to determine the dischargeability of Plaintiff's debts to Defendants pursuant to 11 U.S.C. §523(a)(8). This Court has jurisdiction over this proceeding pursuant to 28 U.S.C. §157, 1334, and 11 U.S.C. §523. This is a core proceeding under 28 U.S.C. §157(b)(2)(I). The Plaintiff consents to the entry of final orders or judgment by this Court.

3. Each and every Defendant and/or its respective predecessors, successors, or assigns, upon information and belief, provided the Plaintiff with student loans which, upon information and belief, are or may be guaranteed by a governmental unit under 11 U.S.C. §523(a)(8). The approximate combined balance owed to the Defendants for the Plaintiff's student loans is approximately \$298,657.10, as represented by claims 1-1 through 5-1 which were filed in

the Main Case and approximately \$263,443.04 owed to Defendants MOHELA and/or the United States Department of Education who did not file any claims in the Main Case.

4. The Plaintiff is currently funding her chapter 13 plan payments, having made twenty-three full plan payments through March 2024 and paid the Defendants who filed a proof of claim in the Main Case a combined total of more than \$6,900.00.

5. Excepting these student loans from discharge will impose an undue hardship on the Plaintiff because the Plaintiff cannot maintain a minimal standard of living for herself and those dependent upon her if forced to repay the loans under their original terms; that such a state of affairs will persist for a significant portion of the repayment period of the student loans; and the Plaintiff has made good faith efforts to repay the loans.

6. The Plaintiff is a 53-year-old school teacher at Norwood View Elementary in Norwood, Ohio. The Plaintiff helps to support her daughter and four grandchildren which she has done for many years. Plaintiff's income is unlikely to increase to a significant extent to repay the student loans in full in the foreseeable future. The Plaintiff has made good faith efforts to pay her student loans in the past, both within the Main Case and through a prior chapter 13 proceeding (case number 1:14-bk-12055).

WHEREFORE, the Plaintiff requests an Order from this Court declaring the obligations owed to the Defendants to be dischargeable pursuant to 11 U.S.C. §523(a)(8), and for any further relief which this Court deems just and equitable.

Respectfully submitted,
/s/ Paul J. Minnillo
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